

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

**IN THE MATTERS OF
JAMES ANTHONY BULLARD, JR.**

VS Docket Nos. 12-032-090039, 12-032-089215, and 12-032-089851

**MEMORANDUM ORDER APPROVING AGREED DISPOSITION FOR
SIXTY-DAY SUSPENSION WITH TERMS**

These matters came on to be heard on September 25, 2012, by the Disciplinary Board of the Virginia State Bar (the Board) by teleconference upon the parties' Agreed Disposition for a Sixty-Day Suspension with Terms, with an alternative sanction of a Six-Month Suspension for failure to comply with the Terms. The Agreed Disposition for a Sixty-Day Suspension with Terms was presented to a panel of the Board consisting of Anderson W. Douthat, Lay Member, R. Lucas Hobbs, Melissa W. Robinson, Esther J. Windmueller, and Richard J. Colten, Acting Chair presiding (the Panel).

Renu Mago Brennan, Assistant Bar Counsel, appeared as counsel for the Virginia State Bar, and Respondent James Anthony Bullard appeared in person with counsel, David L. Hauck.

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-6.H, the Bar and Respondent entered into a written proposed Agreed Disposition and presented same to the Panel.

The Chair swore the Court Reporter and polled the members of the Panel to determine whether any member had a personal or financial interest that might affect or reasonably be

perceived to affect his or her ability to be impartial in these matters. Each member, including the Chair, verified they had no such interests.

The Panel heard argument from counsel and reviewed Respondent's prior disciplinary record with the Bar and thereafter retired to deliberate on the Agreed Disposition. Having considered all the evidence before it, a majority of the Panel accepted the Agreed Disposition for a Sixty-Day Suspension with Terms.

I. FINDINGS OF FACT

1. At all times referenced herein Respondent James Anthony Bullard, Jr., (Respondent) has been an attorney licensed to practice law in the Commonwealth of Virginia.

VSJ DOCKET NO. 12-032-090039 (VIRGINIA STATE BAR-JACKSON)

2. On December 2, 2009, final judgment was entered against Lowell Jackson (Jackson) by the Circuit Court of the City of Richmond upon a conviction of one count of second-degree murder and one count of use of a firearm in the commission of the murder.
3. In December 2009, the Honorable Bradley B. Cavedo of the Circuit Court of the City of Richmond appointed Respondent to handle Jackson's appeal.
4. Respondent timely noted Jackson's appeal and filed a petition for appeal on Jackson's behalf with the Court of Appeals of Virginia.
5. On June 9, 2010, the Court of Appeals of Virginia denied Jackson's appeal.
6. Respondent failed to perfect Jackson's appeal with the Supreme Court of Virginia.
7. Pursuant to Va. Code Section 19.2-321.2, Respondent filed a motion for delayed appeal and affidavit in support with the Supreme Court of Virginia. In the motion for delayed appeal and affidavit in support, Respondent conceded his error in failing to perfect Jackson's appeal with the Supreme Court of Virginia.
8. Respondent advised Jackson that he failed to perfect his appeal with the Supreme Court of Virginia.
9. By order dated February 11, 2011, the Supreme Court of Virginia granted Jackson a belated appeal to the Supreme Court of Virginia based on Respondent's failure to perfect

Jackson's appeal to the Supreme Court of Virginia despite Jackson's desire that his appeal be further prosecuted.

10. On February 24, 2011, the Circuit Court of the City of Richmond appointed Catherine S. Ruzs, Esq., to handle Jackson's appeal. Ms. Ruzs properly perfected Jackson's appeal with the Supreme Court of Virginia.
11. By order dated August 9, 2011, the Supreme Court of Virginia refused Jackson's petition for appeal.

VS B DOCKET NO. 12-032-089215 (VIRGINIA STATE BAR-ROE)

12. On February 22, 2011, final judgment was entered against George Henry Roe, Jr. (Roe) by the Circuit Court of the City of Richmond upon a conviction of petit larceny, third or subsequent offense.
13. The Honorable Bradley B. Cavedo of the Circuit Court of the City of Richmond appointed Respondent to handle Roe's appeal.
14. While Respondent timely noted Roe's appeal with the Court of Appeals of Virginia, Respondent failed to file Roe's petition for appeal with the Court of Appeals of Virginia.
15. By order dated July 22, 2011, the Court of Appeals of Virginia dismissed Roe's appeal because no petition for appeal was filed.
16. On August 22, 2011, pursuant to Va. Code Section 19.2-321.1, Respondent filed a motion for delayed appeal and affidavit in support with the Court of Appeals of Virginia. In the motion for delayed appeal and affidavit in support, Respondent conceded his error in failing to file Roe's petition for appeal with the Court of Appeals of Virginia.
17. By letter dated August 22, 2011 to Roe, Respondent advised Roe of the dismissal of the appeal and his error. Respondent enclosed a copy of the motion for delayed appeal and affidavit in support.
18. Respondent subsequently filed an amended motion for delayed appeal.
19. By order dated September 14, 2011, the Court of Appeals of Virginia granted the motion for delayed appeal and allowed Roe to file a replacement notice of appeal from the February 22, 2011 judgment of the Circuit Court of the City of Richmond.
20. On September 22, 2011, Catherine S. Ruzs, Esq., was appointed to handle Roe's appeal. Ms. Ruzs timely noted Roe's appeal and filed the petition for appeal before the Court of Appeals of Virginia.

21. By order dated February 22, 2012, the Court of Appeals of Virginia denied Roe's appeal.
22. Ms. Ruzs timely noted Roe's appeal and filed the petition for appeal on Roe's behalf before the Supreme Court of Virginia.

VSB DOCKET NO. 12-032-089851 (VIRGINIA STATE BAR-PETTIFORD)

23. On April 8, 2011, final judgment was entered against Tyrone J. Pettiford (Pettiford) by the Circuit Court of the City of Richmond upon a conviction of one count of possession of heroin with intent to distribute. Respondent was Pettiford's court-appointed counsel.
24. Respondent was appointed to handle Pettiford's appeal.
25. Respondent timely noted Pettiford's appeal with the Court of Appeals of Virginia, but Respondent did not file the petition for appeal. Respondent asserts that he was unable to file the petition for appeal because he did not timely order the trial transcripts. Respondent did not request an extension of time from the Court of Appeals so that he could order the transcripts.
26. By order dated September 23, 2011, the Court of Appeals of Virginia dismissed Pettiford's appeal because no petition of appeal had been filed.
27. On September 26, 2011, pursuant to Va. Code Section 19.2-321.1, Respondent filed a motion for delayed appeal and affidavit in support with the Court of Appeals of Virginia. In the motion for delayed appeal and affidavit in support, Respondent conceded his error in failing to file the petition for appeal with the Court of Appeals of Virginia.
28. Respondent copied Pettiford on his September 26, 2011 letter to the Clerk of the Court of Appeals of Virginia enclosing the motion for delayed appeal for filing.
29. The Court of Appeals of Virginia granted Pettiford a delayed appeal.
30. On November 29, 2011, the Honorable Beverly W. Snukals of the Circuit Court of the City of Richmond appointed Catherine S. Ruzs, Esq., to handle Pettiford's appeal.
31. Ms. Ruzs timely noted Pettiford's appeal with the Court of Appeals of Virginia. Thereafter, Ms. Ruzs withdrew as appellate counsel, and successor counsel substituted in as Pettiford's appellate counsel.
32. On April 10, 2012, successor counsel timely filed the petition for appeal on Pettiford's behalf with the Court of Appeals of Virginia.

II. NATURE OF MISCONDUCT

Such conduct by James Anthony Bullard, Jr. constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

RULE 1.3 Diligence

(a) A lawyer shall act with reasonable diligence and promptness in representing a client.

III. IMPOSITION OF SANCTION

Having considered all the evidence before it and determined to accept the Agreed Disposition for a Sixty-Day Suspension with Terms, the Disciplinary Board **ORDERS** that Respondent's license to practice law in the Commonwealth of Virginia is **SUSPENDED** for a period of sixty days beginning November 16, 2012 and terminating January 15, 2013.

In accordance with the Agreed Disposition for a Sixty-Day Suspension with Terms, the Board further **ORDERS** that Respondent comply with the following Terms:

Respondent shall not handle criminal appeals, either as retained or court appointed counsel, for a period of five (5) years beginning November 16, 2012. Respondent may note an appeal from a criminal conviction in order to preserve a client's right to appeal before referring the matter to other counsel. Respondent shall notify, in writing, all courts in which he handles criminal matters, including but not limited to, the Supreme Court of Virginia, the Court of Appeals of Virginia, the Circuit Courts for the Counties of Chesterfield, Hanover, Henrico, and the City of Richmond, that he will not handle criminal appeals for five years from November 16, 2012 to November 16, 2017. From November 16, 2012, to November 16, 2017, Respondent shall, advise, in writing, all clients, retained or appointed, that he cannot and will not represent them in any criminal appeal. Respondent shall certify compliance, in writing, with these terms annually, on November 16, 2013 thru November 16, 2017, to Assistant Bar Counsel Renu M. Brennan or her designee. Before Respondent resumes any criminal appellate practice, Respondent shall notify Assistant Bar Counsel Renu M. Brennan or her designee, and Respondent must take six (6) hours of MCLE approved CLE credit in the area of appellate practice and certify compliance, in writing, to Assistant Bar Counsel Renu M. Brennan or her designee. Respondent may not apply these six (6) hours of credit to his annual MCLE requirement.

Upon satisfactory proof that the Terms have been met, this matter shall be closed. If, however, it appears that Respondent has not complied with the Terms, then pursuant to the Rules of Court, Part Six, Section IV, Paragraph 13-18.O, Assistant Bar Counsel shall serve notice requiring Respondent to show cause why the alternative disposition of a six-month suspension of Respondent's license to practice law in the Commonwealth of Virginia should not be imposed. The burden of proof shall be on Respondent to show compliance with the Terms by clear and convincing evidence. As set forth at Paragraph 13-18.O, if Respondent has failed to comply with the Terms, including written certification of compliance, within the stated time period, as determined by the Disciplinary Board, the alternative disposition for a six-month suspension shall be imposed. In accordance with the Agreed Disposition for a Sixty-Day Suspension with Terms, any proceeding to address compliance with these Terms will be heard by the Disciplinary Board.

In accordance with the Agreed Disposition for a Sixty-Day Suspension with Terms, this **ORDER** is **FINAL** and **NON-APPEALABLE**.

It is further **ORDERED** that Respondent must comply with the requirements of Part Six, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia. The Respondent shall forthwith give notice by certified mail, return receipt requested, of the suspension of his license to practice law in the Commonwealth of Virginia, to all clients for whom he is currently handling matters and to all opposing attorneys and presiding judges in pending litigation. The Respondent shall also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his client. Respondent shall give such notice within 14 days of the effective date of the suspension, and make such arrangements as are required herein

within 45 days of the effective date of the suspension. The Respondent shall also furnish proof to the Bar within 60 days of the effective day of the suspension that such notices have been timely given and such arrangements made for the disposition of matters.

It is further **ORDERED** that if the Respondent is not handling any client matters on the effective date of the suspension, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13-29 shall be determined by the Virginia State Bar Disciplinary Board, unless the Respondent makes a timely request for hearing before a three-judge court.

It is further **ORDERED** that costs shall be assessed by the Clerk of the Disciplinary System pursuant to the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13-9.E.

It is further **ORDERED** that the Clerk of the Disciplinary System shall send an attested copy of this order by certified mail to the Respondent, at his last address of record with the Virginia State Bar, James Anthony Bullard, Jr., James A. Bullard, Jr., P.C, 2916 Chamberlayne Avenue, Richmond, VA 23222 and by regular mail to his counsel, David L. Hauck, Duane, Hauck & Gnapp, P.C., 10 E Franklin St., Suite 400, Richmond, VA 23219-2106, and to Assistant Bar Counsel Renu M. Brennan, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, VA 23219.

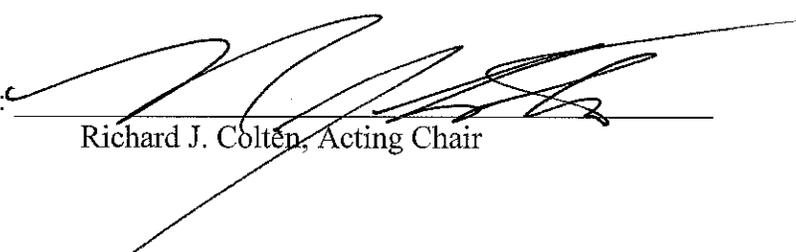
Valarie L.S. May, Chandler & Halasz, P.O. Box 9349, Richmond, Virginia 23227,

telephone (804) 730-01222, was the court reporter for the hearing and transcribed the proceedings.

ENTERED: October 3, 2012

VIRGINIA STATE BAR DISCIPLINARY BOARD

By:


Richard J. Colten, Acting Chair